

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Wei Liu,

Plaintiff

v.

Mandalay Bay, LLC d/b/a Mandalay Bay
Resort and Casino and MGM Resorts
International,

Defendants

Case No. 2:23-cv-01435-CDS-MDC

Order Granting Motion to Dismiss

[ECF No. 8]

This is an employment action brought by plaintiff Wei Liu against Mandalay Bay in September of 2023. Defendants Mandalay Bay and MGM Resorts International filed a motion to dismiss the amended complaint on October 10, 2023. Mot., ECF No. 8. Liu filed a response January 16, 2024, after I granted Liu's motion to extend time to file an opposition to the motion.¹ Resp., ECF No. 21. Therein, Liu concedes that, as pled, the first amended complaint is defective and needs to be amended. *Id.* at 2. Liu further contends that it is his intention to file a second amended complaint. *Id.* In reply, defendants argue that Liu's response neither opposes nor disputes the arguments in the motion to dismiss so the motion should be granted. Reply, ECF No. 22. For the reasons set forth herein, I grant defendants' motion to dismiss the first amended complaint but dismiss the complaint without prejudice and with further instructions.

I. Discussion

This court's Local Rules provide that "[t]he failure of an opposing party to file points and authorities in response to any motion ... constitutes a consent to the granting of the motion." LR 7-2(d). Despite seeking additional time to file an opposition, Liu's response fails to cite to any points and authorities in support of denying the motion. *See* ECF No. 21. Instead, Liu candidly

¹ *See* Order granting in part and denying in part motion to extend time, ECF No. 20.

1 acknowledges pleading deficiencies² and advises that he would seek leave to file an amended
2 complaint. *Id.* at 2. Consequently, I grant defendants' motion to dismiss.

3 However, I dismiss the first amended complaint without prejudice as Liu submits that it
4 is his intention to amend the pleading. Liu has 14 days from the date of this order to file a motion
5 to amend in accordance with Fed. R. Civ. Pro. 15(a) and Local Rule 15-1(a), which defendants
6 can oppose in the normal course. Liu is cautioned that a failure to file a motion to amend will
7 result in the court closing this case.

8 **II. Conclusion**

9 IT IS HEREBY ORDERED that defendants' motion to dismiss [ECF No. 8] is
10 **GRANTED**. The first amended complaint is dismissed without prejudice and with leave to
11 amend. If Liu so chooses, he has 14 days from the date of this order to file a motion to amend.

12 DATED: January 30, 2024

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15 Cristina D. Silva
16 United States District Judge
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² The complaint was already amended one time by Liu's prior counsel. See First Am. Compl., ECF No. 2.